

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS**

TAMMY LAUIE HAMILTON DBA THE
DESIGN STUDIO,

Plaintiff,

vs.

WESLEY CHRISTOPHER AND
RECOVERY SOLUTIONS GROUP,
LLC,

Defendants.

Civil Action No.: (REMOVAL)

**NOTICE OF REMOVAL OF
CIVIL ACTION FROM STATE COURT**

**TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

Defendants, WESLEY CHRISTOPHER (hereinafter “Christopher”) and RECOVERY SOLUTIONS GROUP, LLC (hereinafter “RSG”), by and through their undersigned attorney, respectfully represent as follows:

1. On or about September 17, 2019, Plaintiff, Tammy Laurie Hamilton, d/b/a The Design Studio (hereinafter referred to as “Plaintiff”) filed a civil action petition against RSG and co-defendant Wesley Christopher (“Christopher”) in the District Court of Tarrant County, Texas, which was assigned the docket number 141-311273-19. *A true copy of the Petition is attached hereto as **Exhibit “A”**.*

2. The Petition seeks, inter alia, damages for injuries allegedly arising from attempts to collect a defaulted business loan incurred by Plaintiff. Plaintiff raises claims for common law torts of unreasonable collections and intentional infliction of emotional distress. *See **Exhibit A**.*

3. The District Courts of the United States have original jurisdiction over the above entitled action pursuant to 28 U.S.C. § 1332(a), as it involves citizens of different States and the amount in controversy is greater than \$75,000.00.

4. Pursuant to 28 U.S.C. § 1441(a), any such civil action brought in a State court may be removed, but only to the district court of the United States for the district and division embracing the place where such action is pending.

5. Therefore, Christopher and RSG by this Motion seek removal to the United States District Court for the Northern District of Texas, which embraces the location of the pending Petition.

6. The Petition was served upon RSG at its headquarters in Milford, Delaware on or about September 27, 2019. See *Exhibit A*.

7. As such, this notice is timely filed with this Court within thirty (30) days after service of the Petition upon Defendant pursuant to 28 U.S.C. § 1446(b).

DIVERSITY IS SATISFIED

Defendants, RSG and Christopher, and Plaintiff are Citizens of Different States

8. The Petition alleges that Plaintiff resides in Tarrant County, Texas. *Petition*, ¶ 4.

9. The Petition alleges that defendant Christopher is a natural person who resides in Delaware. *Petition*, ¶ 5.

10. The Petition further alleges that defendant RSG is a limited liability company located in Delaware. *Petition*, ¶ 6.

11. Therefore, for purposes of diversity, RSG and Christopher are citizens of the State of Delaware while Plaintiff is a citizen of the State of Texas; neither Christopher nor RSG is a citizen of Texas. *Petition*, ¶¶ 4-6.

The Amount in Controversy is Greater Than \$75,000

12. “When a defendant seeks to remove on the basis of diversity jurisdiction, the federal court ordinarily determines the amount in controversy based on the specific ‘good faith’ sum demanded by the plaintiff in her state court petition. *Ford v. UPS (Ohio)*, Civil Action No. 3:14-CV-1872-D, 2014 U.S. Dist. LEXIS 116214, at *4-5 (N.D. Tex. Aug. 21, 2014) (citing 28 U.S.C. § 1446(c)(2); *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 288, 58 S. Ct. 586, 82 L. Ed. 845 (1938)).

13. Here, while the Petition does not identify a sum specific which Plaintiff is demanding, Plaintiff alleges that the amount in controversy is “\$100,00.00 or less”. *Petition*, ¶ 34.

14. “[A]bsent a state statute or rule prohibiting plaintiffs from recovering more than initially pleaded in their original complaint, plaintiffs must file a binding stipulation with their complaint that they will not accept a sum of damages exceeding \$75,000 to avoid federal diversity jurisdiction.” *Gates v. Allstate Tex. Lloyd's*, 267 F. Supp. 3d 861, 871 (W.D. Tex. 2016) (citing *De Aguilar v. Boeing Co.*, 47 F.3d 1404, 1412 (5th Cir. 1995)).

15. In this instance, Plaintiff has made no such stipulation limiting the damages she would accept to below \$75,000.00. *See, Exhibit A*.

15. As such, the amount in controversy for jurisdiction pursuant to 28 U.S.C. § 1332 has been satisfied.

16. Defendant has attached an Index of Attachments to this notice itemizing Exhibits A-D as required by 28 U.S.C. § 1446(a) and Local Rule 81 as follows:

- A. A true and correct copy of all process, pleadings, and papers filed and served in this action as of the date of filing this Notice of Removal;
- B. Notice of Removal to be filed in state court;

- C. List of Parties and Attorneys; and
- D. Declaration.

WHEREFORE, Defendants, Wesley Christopher and Recovery Solutions Group, LLC, respectfully request that the above entitled action be removed from the District Court of Tarrant County, Texas and to the United States District Court for the Northern District of Texas.

Respectfully submitted,
MAURICE WUTSCHER LLP

//s// Keith Wier

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**ATTORNEY FOR DEFENDANTS,
WESLEY CHRISTOPHER AND RECOVERY
SOLUTIONS GROUP, LLC**

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of October, 2019, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Robert "Chip" C. Lane
Joshua D. Gordon
The Lane law Firm, PLLC
6200 Savoy, Suite 1150
Houston, Texas 77036
Email: notifications@lanelaw.com;
joshuagordon@lanelaw.com

//s// Keith Wier
Keith Wier

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